

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

ADVANCED GYNECOLOGY AND LAPAROSCOPY  
OF NORTH JERSEY, P.C., et al.,

Plaintiffs,

v.

CIGNA HEALTH AND LIFE INSURANCE COMPANY  
and CONNECTICUT GENERAL LIFE INSURANCE  
COMPANY,

Defendants.

Hon. Esther Salas, U.S.D.J.

Hon. Michael A. Hammer,  
U.S.M.J.

Civil Action No. 2:19-cv-22234-  
ES-MAH

**JOINT DISCOVERY PLAN**

Pursuant to the Text Order entered by the Court on February 27, 2023 (ECF Dkt No. 150), the parties submit the proposed joint discovery order setting forth deadlines for each remaining litigation task remaining in this matter.

**PROPOSED JOINT DISCOVERY ORDER**

**Phase I: Preliminary Fact Discovery**

**Plaintiffs' Position<sup>1</sup>:**

A. Defendants shall produce the following by May 1, 2023:

i. MRC-2 Pricing Information:

a. the methodology used by Defendants to calculate the MRC-2 reimbursements related to the claims at issue in the case; and

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<sup>1</sup> The parties reserve the right to pursue third-party discovery, including the discovery sought from Cigna below that was previously sought by Plaintiffs through third-party subpoenas.

- b. The unredacted Declaration of Wendy Gompper submitted by Defendants following remand in The Plastic Surgery Center P.A. v. Cigna Health and Life Ins., No. 3:17-cv-2055-FLW-DEA, 2021 WL 1686772, \*6-7 (D.N.J. Apr. 29, 2021), appeal dismissed, 2022 WL 1598962 (3d Cir. Apr. 29, 2022);
- ii. the remaining 225 Summary Plan Descriptions covering the patients whose claims are at issue in the TAC;
- iii. complete and unredacted agreements between Defendants and any third-party repricing negotiation companies; and
- iv. Defendants' reimbursement policies explaining their modifiers for the time period at issue or a statement that no such policies exist.

B. Defendants shall produce the following by May 15, 2023:

- i. ANSI X12 data, including CCD+ addenda, 835 transaction data, origination agreements, trading partner agreements and implementation guides for the claims at issue;
- ii. Documentation related to Defendants' decision to alter their in their EOBs beginning in late 2020 related to the claims at issue in this case;
- iii. Documentation related to Defendants' decision to alter certain 2020 and 2021 Administrative Services Only agreements related to the claims at issue in this case;
- iv. Cost containment fees paid to Defendants and related fees paid to third-party repricing companies for the claims at issue in the case;

- v. Defendants' complete production of call recording information between Cigna and the third-party repricing companies related to the claims at issue or a statement that no such call recordings exist; and
- vi. Process documents used by Defendants' provider facing call representatives regarding the repricing process as well as Defendants' appeal escalation policy.

**Defendants' Position:**

- A. Defendants will produce the following by May 1, 2023:
  - i. The Declaration of Wendy Gompper described above, which describes Defendants' MRC-2 calculation methodology. The Declaration shall be marked "Attorneys' Eyes Only" and any confidential PHI shall be redacted; and
  - ii. the reimbursement policies identified by Plaintiffs on October 28, 2022, which include modifier numbers 22, 25, 26, 50, 51, 57, 59, 62, 78, 80, 81, 82, XU, RT, LT and AS.
- B. Defendants will produce the following by May 15, 2023:
  - i. Call recording information between Cigna and the third-party repricing companies related to the claims at issue and/or, to the extent no such call recordings exist, a statement to that effect; and
  - ii. Documents used by Defendants' provider-facing call representatives regarding the repricing process, as well as Defendants' appeal escalation policy, or state that no such responsive documents exist.
- C. Defendants will produce the following by July 14, 2023:
  - i. Cost containment fees paid to Defendants and related fees paid to third-party repricing companies for the claims at issue in the case.

- D. On or before April 14, 2023, Defendants shall file a Motion for Protective Order related to the following Requests, as detailed more fully in ECF No. 149:
- i. Remaining Summary Plan Descriptions (“SPDs”);
  - ii. Reproduction of Agreements with Third-party Repricing Companies; and
  - iii. ANSI X12 data;
- E. Regarding Plaintiffs’ request for documents related to alleged changes in EOB and ASO agreement language, respectively, Defendants are in the process of evaluating confidentiality concerns and burden in collecting, review and producing the requested information, to the extent any responsive information exists. Defendants will either include these requests in its anticipated Motion for Protective Order or produce responsive, non-privileged information by July 14, 2023.

**Phase II: Plenary Discovery**

- A. The parties shall meet and confer by June 9, 2023, regarding the following:
- i. E-Discovery Conference Pursuant to L. Civ. R. 26(d)
  - ii. Proposed custodians and ESI search terms
- B. Parties to serve initial written discovery by June 9, 2023;

**Plaintiffs’ Position:**

- i. Maximum of fifty (50) single-part interrogatories each for all Plaintiffs and all Defendants;
- ii. Maximum of fifty (50) document requests each for all Plaintiffs and all Defendants;

- iii. Maximum of twenty-five (25) depositions each for all Plaintiffs and all Defendants. Additional depositions are only permitted by agreement of the parties or with leave of court.

**Defendants' Position:**

- i. The presumptive limits of Fed. R. Civ. P. 30(a)(2)(A)(i) and 33(a)(1) shall apply, and may only be enlarged by agreement of the parties or with leave of court upon a showing of good cause.
- C. Fact discovery end date is February 9, 2024.
  - D. Plaintiffs' expert reports due on April 12, 2024.
  - E. Defendants' expert rebuttal reports due on May 31, 2024.
  - F. Expert depositions completed by June 28, 2024.
  - G. Dispositive motions to be served by August 23, 2024.
  - H. A case management conference shall be held on \_\_\_\_\_, 2023 at \_\_:\_\_ am/pm.

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Michael A. Hammer, U.S.M.J.